

TESTIMONY OF ROBERT P. YODER, SR.
PAST PRESIDENT
COUNCIL FOR AFFORDABLE AND RURAL HOUSING (CARH)
BEFORE THE
HOUSING AND COMMUNITY OPPORTUNITY SUBCOMMITTEE
HOUSE FINANCIAL SERVICES COMMITTEE
HOUSE OF REPRESENTATIVES
JULY 17, 2001

The Council for Affordable and Rural Housing ("CARH")* and I thank the Committee for the opportunity to speak and for this Committee's interest in the needs of rural America and our elderly citizens.

CARH members own or operate affordable housing across rural America, and this housing typically houses elderly persons. My own business has developed, managed and owned affordable housing throughout rural Pennsylvania for many years. We have seen the continuation of a historical trend of the younger members of a community moving away for employment or cultural reasons, while older family members remain. Certainly, there are exceptions to this trend, but it continues.

The real issue facing America is how to facilitate efforts to provide decent safe, affordable housing. We believe that this is an ongoing process the requires us to adequately maintain the existing affordable housing stock, provide for developing new housing in the areas that need it, and provide services that elderly persons typically need.

Recent studies conclude that there are 13.7 million families and elderly persons with critical housing needs, which includes a significant proportion of rural residents. Stegman, Quercia, McCarthy "Housing America's Working Families," New Century Housing (June, 2000). This need falls disproportionately on rural areas, as concluded by the General Accounting Office's September 2000 report entitled "Rural Housing Options for Optimizing the Federal Role in Rural Housing Development." As such, federal programs addressing housing needs also need to address rural housing needs to include all Americans in our national economy.

CARH members have had a series of discussions concerning the most efficient method for the delivery of affordable rural housing for the elderly as well as for rural America. We believe any such analysis must include the Rural Housing Service (RHS),

*CARH is a national trade association with headquarters in Alexandria, Virginia. CARH represents the interests of over 300 companies. Members of the association build, develop, finance, manage, own and supply products to the rural housing industry.

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the federal agency principally charged with providing affordable rural housing, and the Low-Income Housing Tax Credit ("Tax Credit"), which has become the central focus for the production of rural and non-rural affordable housing.

Roughly one-third of RHS multifamily properties are designated as elderly (age 62 or older or handicapped). Approximately 56 per cent of residents in RHS assisted property meet this criteria, with about 42 percent defined as 62 or older. Clearly, RHS properties largely exist to address not only rural, but elderly needs.

With this in mind, I would like to comment on RHS matters, along with other programs and concerns.

1. Restore RHS' Budget.

RHS' budget has been severely limited in recent years and the multi-family housing production budget is a fraction of that appropriated by Congress in years past. The RHS' main multifamily program is Section 515. Historical funding levels were around \$500 million. In recent years, the budget was reduced to around \$100 million, and a large portion of these funds are used for rehabilitation of existing Section 515 properties. (Precise budget figures can be provided upon request). This has resulted in relatively little new housing for rural America. Accordingly, we believe that, in all events, rural housing production appropriations should be increased to historical levels of the early 1990s. We expect that any funding increase would be modest in the current federal budget environment, but even a modest increase would be important.

Additional revenue will not only provide for housing, but for services and housing providers. Currently, RHS does not permit owners to use rent revenue to pay for special resident events or programs. We believe this is part of an effort to conserve funds. However, elderly residents located in relatively remote areas frequently need additional services, ranging from transportation, to physical therapy and medical related-services. Affordable housing can better attract, retain and provide for elderly residents if it can provide or coordinate services. Housing providers are knowledgeable about resident needs, but short on funding.

2. New Cost Effective Program.

In light of funding shortages, we have analyzed various ways to utilize federal funds to achieve maximum financial leverage. Our best suggestion outside of restoring budget funds is to leverage federal appropriations through a new program under the Federal Home Loan Bank system (the "Banks"). The Banks and their members ("Members") are an

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appealing source of financing because Members are largely located in or near rural areas. In our experience, Members also tend to be familiar with the development of rural housing.

This program would provide an interest credit in which a lump sum is paid to the Banks or the Federal Housing Finance Board, to be used to buy-down mortgage interest rates to support the below-market mission that RHS serves. The Banks' Affordable Housing Program and Community Lending Program already support and encourage Members to loan funds to rural multi-family housing. This interest credit program would facilitate greater lending at a below-market interest rate, and the savings can be passed on to residents in the form of below-market rents.

3. Tax Credit -- Addressing Rural Housing Needs.

We believe that the Tax Credit rules under Section 42 of the Internal Revenue Code should be clarified to permit the 9% credit for RHS programs, similar to the treatment of HUD programs. RHS provides rental assistance, direct loans and loan guarantees. RHS subsidies are often regarded by the tax credit investment industry as below-market federal finance, disqualifying RHS properties from the 9% Tax Credit, for all practical purposes. An amendment to specifically provide for 9% Tax Credit eligibility will help make additional rural housing possible. We believe that such legislation could even be targeted to very low income populations (such as the HOME program, where the minimum set aside for 9% Tax Credit is heightened to at least 40% of units occupied by persons at no more than 50% of a median income).

Similarly, we recommend that Section 42 be amended to provide for a small statutory set aside for properties located in rural housing areas as designated by RHS. This will also help open credit to needy, rural areas. A minimal set aside of at least 10% would be consistent with past set-asides, such as for non profit entities.

We also believe that the current rent limit rules need to be addressed. Under existing law tax credit residents can earn no more than 60 percent of their median income. Apartments financed by the credit can have rents at no more than 30 percent of 60 percent of the area median income. In many areas across the country, particularly rural areas, the median income is simply too low to support the development of new multifamily complexes therefore, making development in those areas very difficult or infeasible. Recent data from the Department of Housing and Urban Development (HUD) demonstrates that current income limits inhibit housing credit development in as many as 1,700 of the 2,364 non-metropolitan counties across the country.

CARH supports H.R. 951, introduced by Representatives Amo Houghton (R-NY) and Richard Neal (D.-MA) and S. 677 introduced by Senators Orrin Hatch (R.-UT) and John

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Breaux (D.-LA). These bills would amend the Internal Revenue Code to allow states to use the higher of the area median income (AMI) or the statewide median income for the purpose of calculating application income limits. This technical change to the tax credit program would greatly enhance the tax incentive's ability to help low-income renters that live in the nation's rural areas.

4. Vouchers.

RHS properties would benefit greatly from an allotment of Section 8 vouchers. Currently, rural properties cannot easily access Section 8 vouchers. An allotment of rural Section 8 vouchers (like the rural housing set aside for project-based Section 8) will open subsidy to very low income rural residents.

5. RHS Structural Issues.

RHS has national programs that should operate under basic national standards. However, RHS is administered on a state-by-state basis with state directors reporting to the Undersecretary for Rural Development instead of the Administrator. Each state office has leeway to establish and implement the same federal programs in vastly different ways than other offices, creating a jumble of interpretations to what should be a uniform set of standards. We believe that RHS should have uniform national standards and lines of authority, similar to current HUD operations.

6. Refinancing Barriers.

There are nearly 18,000 RHS multifamily properties, and at least two-thirds are 15 years and older. These properties need to be refinanced and redeveloped over the next several years to prevent this productive and successful portfolio from decaying. Two statutory changes are needed to accomplish this goal.

The Internal Revenue Code should be amended to provide for a tax forgiveness or deferral for persons who transfer their properties at a loss that there are no tax costs in excess of distributions at Closing. Currently, owners are "locked-in" by exit tax liability, which prevents transfer and refurbishment. This barrier is particularly intractable because many of these owners invested in these properties for tax benefits contained in the pre-1986 Tax Code, which were deleted with the 1986 amendments.

We would expect taxes to still be levied on any net income or profits received in a sale. Indeed, we believe that this proposal will actually increase tax revenues. Owners would be willing and able to transfer their properties, possibly realize a small profit and pay taxes on those profits.

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Separately, the Low-Income Housing Preservation and Resident Homeownership Act of 1990 removed multifamily owners' right to prepay their RHS loans. This right was abridged at the same time a similar bar went into effect for HUD properties. The right to prepay was restored for HUD properties, but inexplicably, not for RHS properties. We believe restoring these rights will accelerate refinancing and refurbishment of aging properties but with little risk of removing such rural properties from the affordable housing stock. The current restriction acts as a barrier to progress even where the goal is to maintain the low-income nature of the properties.

We have addressed a variety of issues that we believe can profoundly improve the delivery of assisted housing to rural areas and in particular to older Americans in rural America. Let me reiterate that providing housing is an ongoing process, and our suggestions will help maintain the existing affordable housing stock, provide for developing new housing in the areas that need it, and provide services that elderly persons typically need.

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